

James Madison to Edmund Pendleton, January 9, 1787. Transcription: The Writings of James Madison, ed. Gaillard Hunt. New York: G.P. Putnam's Sons, 1900-1910.

TO EDMUND PENDLETON. Mad. Mss.

Richmond, Jany. 9th, 1787.

My Dear Sir, —Your favor of the 9th ult, has been so long on hand unanswered that I can not now acknowledge it without observing in the apology for the delay that I waited for some measures of which I wished to communicate the event. The district bill of which I formerly made mention, was finally thrown into a very curious situation, and lost by a single voice. I refer you for its history to Col. Pendleton, who was here at the time and is now with you. An attempt has been since made to render the General Court more efficient by lengthening its terms, and transferring the criminal business to the Judges of the Admiralty. As most of the little motives which co-operated with a dislike to Justice, in defeating the District Bill happened to be in favour of the subsequent attempt, it went through the House of Delegates by a large Majority. The Senate have disappointed the majority infinitely in putting a negative on it, as we just learn that they have done, by a single voice. An amendment of the County Courts has also been lost, through a disagreement of the two Houses on the subject. Our merit on the score of Justice has been entirely of the negative kind. It has been sufficient to reject violations of this cardinal virtue, but not to make any positive provisions in its behalf.

The revised code has not been so thoroughly passed as I hoped at the date of my last. The advance of the Session, the coldness of

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a great many, and the dislike of some to the subject, required that it should be pressed more gently than could be reconciled with a prosecution of the work to the end. I had long foreseen that a supplemental revision as well of some of the articles of the Code, as of the laws passed since it was digested, would become necessary, and had settled a plan for the purpose with myself. This plan was to suspend the laws adopted from the code, until the supplement could be prepared, and then to put the whole in force at once. Several circumstances satisfied me of late that if the work was put within the reach of the next assembly, there would be danger not only of its being left in a mutilated state, but of its being lost altogether. The observations in your favor above acknowledged, encouraged me to propose that the parts of the code adopted should take effect without waiting for the last hand to it. This idea has been pursued, and the bills passed at the last Session are to comence as then determined, those passed at the present being suspended until July next. I would myself have preferred a suspension of the former also till July, for the sake of a more thorough promulgation, and of a cotemporary introduction of the laws many of which are connected together; but the Senate thought otherwise, and in a ticklish stage of the Session, the friends of the code in the H. of D. joined me in opinion that it would be well to create no unnecessary delays or disagreements. I have strong apprehensions that the work may never be systematically perfected for the reasons which you deduce from our form of Government. Should a disposition however continue in the Legislature as favorable as it has been in some stages of the business, I think a succession of revisions, each growing shorter than the preceding, might ultimately bring a completion within the compass of a single Session. At all events, the invaluable acquisition of important bills prepared at leisure by skilful hands, is so sensibly impressed on thinking people by the crudeness and tedious discussion of such as are generally introduced, that the expence of a continued revision will be thought by all such to be judiciously laid out for this purpose alone. The great objection which I personally feel arises from the necessity we are under of imposing the weight of these projects on those whose past services have so justly purchased an exemption from future labours. In your case the additional consideration of ill health, became almost an affair of Conscience, and I have been no otherwise able to stifle

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the remorse of having nominated you along with Mr. Wythe and Mr. Blair for reviewing the subject left unfinished, than by reflecting that your colleagues will feel every disposition to abridge your share of the burden, and in case of such an increase of your infirmity as to oblige you to renounce all share, that they are authorised to appoint to, I will not say to *fill*, the vacancy. I flatter myself that you will be at least able to assist in general consultations on the subject, and to adjust the bills unpassed to the changes which have taken

place since they were prepared. On the most unfortunate suppositions my intentions will be sure to find in your benevolence a pardon for my error.

The Senate have saved our commerce from a dreadful blow which it would have sustained from a bill passed in the H. of D. imposing enormous duties, without waiting for the concurrence of the other States or even of Maryland. There is a rage at present for high duties, partly for the purpose of revenue, partly of forcing manufactures, which it is difficult to resist. It seems to be forgotten in the first case that in the arithmetic of the customs as Dean Swift observes 2 & 2 do not make four; and in the second that manufactures will come of themselves when we are ripe for them. A prevailing argument among others on the subject is that we ought not to be dependent on foreign nations for useful articles, as the event of a war may cut off all external supplies. This argument certainly loses its force when it is considered that in case of a war hereafter, we should stand on a very different ground from what we lately did. Neutral Nations, whose rights are becoming every day more & more extensive, would not now suffer themselves to be shut out from our ports, nor would the hostile Nation presume to attempt it. As far as relates to implements of war which are contraband, the argument for our fabrication of them is certainly good.

Our latest information from the Eastwd. has not removed our apprehensions of ominous events in that quarter. It is pretty certain that the seditious party has become formidable in the Govt. and that they have opened a communication with the viceroy of Canada. I am not enough acquainted with the proceedings of Congress to judge of some of the points, which you advert to. The regulations of their land office have appeared to me nearly in the light

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in which they do to you. I expect to set out in a few days for N. York, when I shall revive my claim to a correspondence which formerly gave me so much pleasure and which will enable me perhaps to answer your queries. The end of my paper will excuse an abrupt but affecte Adieu.